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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/643,912	08/23/2000	Kiyoshi Asami	001062	9494
38834	7590	04/15/2005	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036			NGUYEN, TU MINH	
			ART UNIT	PAPER NUMBER
			3748	

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/643,912

Applicant(s)

ASAMI ET AL.

Examiner

Tu M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 17 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. An Applicant's Amendment filed on February 17, 2004 has been entered. Overall, claims 5 and 8 are pending in this application.

Applicant argues that Kojima fails to disclose or render obvious a clutch in the power distributing mechanism. This argument is not persuasive, however, the examiner decides to apply a secondary reference. Therefore, the previous office action is hereby withdrawn and a new office action is set forth below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima (U.S. Patent 6,253,866) in view of Tsukamoto et al. (U.S. Patent 5,771,478).

Re claim 5, as illustrated in Figures 1-2, Kojima discloses a catalyst warming control apparatus for a hybrid vehicle asserting control over the vehicle both when the vehicle is moving and when the vehicle is standing still, having an internal combustion engine (1), a generator (3) for generating electric power from an output of the internal combustion engine, a power storage unit (6) for storing electric power generated by the generator, and an electric motor (2) driven by

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the electric power stored in the power storage unit, the hybrid vehicle being driven by at least one of the internal combustion engine and the motor, the catalyst warming control apparatus comprising:

- a power distributing mechanism (4) for distributing a rotary force to the generator (3) and a rotary shaft (2a) of the electric motor (2);
- a coolant temperature detector (17) for detecting an engine temperature of the internal combustion engine (1);
- a temperature detector (15) for detecting the temperature of a catalyst;
- a first comparison circuit (step S202) for comparing the detected engine temperature with a preset first reference value;
- a control circuit (23, 24) for allowing the generator to generate electric power and to store the power in the power storage unit when the internal combustion engine is driven, and when the detected engine temperature is below the first reference value (step S202 with YES answer, step S204 with NO answer, step S205, step S206 with YES answer, and step S207; also see at least line 57 of column 8 to line 50 of column 9 and line 61 of column 10 to line 32 of column 11);
- a remaining charge detector (16) for detecting a remaining charge of the power storage unit; and
- a second comparison circuit (lines 42-51 of column 7) for comparing the detected result from the remaining charge detector with a preset second reference value relating to the remaining charge,

wherein the control circuit drives the vehicle by the output from the internal combustion engine, engages the power distributing mechanism, and allows the generator to generate electric power and to store the power in the power storage unit, when the detected result from the temperature detector is below the first reference value according to the output from the first comparison circuit, and when the detected result from the remaining charge detector is equal to or below the second reference value relating to the remaining charge according to the output from the second comparison circuit (see lines 1-25 of column 9); and

wherein the control circuit allows the generator to generate electric power, disengages the power distributing mechanism, and drives the vehicle by the generated electric power and stores the electric power, when the detected result from the temperature detector is below the first reference value according to the output from the first comparison circuit, and when the detected result from the remaining charge detector is above the second reference value relating to the remaining charge according to the output from the second comparison circuit (see lines 1-33 of column 9).

As indicated on line 62 of column 5 to line 6 of column 6, the power distributing mechanism (4) in Kojima is constructed of a planetary gear with a rotary shaft of the planetary gear linked to the engine output shaft (1a), a ring gear with a rotary shaft of the ring gear connected to the rotary shaft (2a) of the electric motor (2), and a sun gear with a rotary shaft of the sun gear connected to the generator (3). Thus, the power distributing mechanism clearly has a function of distributing or transmitting a rotary force or power from at least one of the shafts of the engine and the electric motor to the generator.

Kojima, however, fails to specifically disclose that the power distributing mechanism comprises a clutch for performing the connection or disconnection of the transmission of the power between the generator connected to the engine and to the motor.

As shown in Figures 1-3, Tsukamoto et al. teach that it is conventional in the art to utilize a clutch (CL) to perform the connection or disconnection of the transmission of the power between the generator (M1) connected to the engine (11) and to the motor (M1) for a hybrid vehicle with a planetary gear box (16). It would have been obvious to one having ordinary skill in the art at the time of the invention was made, to have utilized the clutch taught by Tsukamoto et al. in the power distributing mechanism of Kojima, since the use thereof would have been routinely practiced by those with ordinary skill in the art.

Re claim 8, in the apparatus of Kojima, the control circuit allows the generator to generate electric power, and drives the vehicle by the motor, when the detected result from the temperature detector is below the first reference value according to the output from the first comparison circuit, and when the detected result from the remaining charge detector is above the second reference value relating to the remaining charge according to the output from the second comparison circuit (see lines 1-33 of column 9).

Response to Arguments

4. Applicant's arguments with respect to claims 5 and 8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Prior Art

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of two patents: Taniguchi et al. (U.S. Patent 5,846,155) and Nagano et al. (U.S. Patent 6,155,364) further disclose a state of the art.

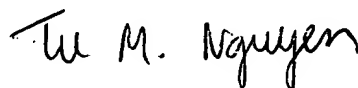
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Communication

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Tu Nguyen whose telephone number is (571) 272-4862.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas E. Denion, can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TMN

Tu M. Nguyen

April 14, 2005

Primary Examiner

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